

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 386

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, August 31, 2004
Tuesday, 9:03A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, present. Council Member Schlapp, absent.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Patsy Ellis, Deputy City Clerk; present.

RESOLUTION

Mayor Mayans read a Resolution in honor and memory of Mr. Chris Cherches, former City Manager.

RESOLUTION

May we always remember him

WHEREAS, this posthumous recognition honors the life and accomplishments of Chris Cherches, who passed from this life on August 26, 2004; and

WHEREAS, Chris gave of himself as a dedicated public servant for more than 40 years; and

WHEREAS, Chris served as City Manager for the City of Wichita for more than 18 years leaving his indelible imprint on the skyline of the city and in the hearts of the community; and

WHEREAS, Chris will be remembered for his never-ending work day, his fast stride, his tremendous vision and his dedication to Wichita and her citizens; and

WHEREAS, this community is full of examples of Chris's work, his vision, and his pride and love for this community. They will continually remind us of the man who worked tirelessly to make Wichita the best city it can be; and

NOW, THEREFORE, BE IT RESOLVED, that I, Carlos Mayans, Mayor of the City of Wichita, Kansas, on behalf of the City Council and all the citizens of Wichita, do hereby recognize the outstanding life of Chris Cherches, a man who truly gave his all for the benefit of this community, and

BE IT FURTHER RESOLVED that the citizens of Wichita join us as we express our sincere condolences to the Cherches family on their, and our, loss.

Motion--carried

Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp, absent).

RECESS

Motion--carried

Mayans moved that the Council Meeting be recessed until 2:00 p.m. Motion carried 6 to 0, (Schlapp absent).

RECONVENE

The City Council reconvened at 2:00 p.m., in Council Chambers. Karen Sublett, City Clerk, present.

Motion--
--carried

Brewer moved to approve the Minutes of the regular meeting for August 17, 2004. Motion carried 6 to 0, (Schlapp, absent).

Mayor Mayans

Mayor Mayans announced that the Council will address the Consent and Planning Agenda and then the Unfinished Business Item.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 387

CONSENT AGENDA

Motion-- Brewer moved that the Consent Agenda be approved as consensus Items. Motion carried 6 to 0,
--carried (Schlapp absent).

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 23, 2004:

Bids were opened August 20, 2004, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

13th Street Bridge over Cowskin Creek, Phase 1 - 13th Street approximately 1/4 Mile East of 119th Street West. (87N-0230-01/472-83851/715697/244113) 13th Street Bridge will be closed to thru traffic. (District V)

King Construction Co., Inc. - \$1,443,362.60 (Pending KDOT approval)

2004 Sanitary Sewer Reconstruction, Phase 10 - North of 31st Street South, between Meridian and 143rd Street East. (468-83866/620415/664535) Traffic shall be maintained during construction using flagpersons and barricades. (Districts I, II, III, IV)

WB Carter Construction - \$231,000.00

Motion-- Brewer moved that the contract(s) be awarded as outlined above, subject to check, same being the
--carried lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

FIRE DEPARTMENT/SAFETY DIVISION: Firefighter Protective Clothing.

Total Fire Group - \$15,064.00* (Group 5/Alternate A – Total net bid)
*With ESS goggles

PUBLIC WORKS DEPARTMENT/FLEET MAINTENANCE DIVISION: Warning Lightbars/Equipment.

LSH Lights - \$11,945.68 (Group 1/Total Net Bid)

PUBLIC WORKS DEPARTMENT/STORM WATER MANAGEMENT DIVISION: Drainage at Lincoln/Minnesota & Ridge/Kellogg.

Dondlinger & Sons - \$11,755.00 (Group 1/Total Net Bid)

WB Carter Construction Co. - \$40,231.00 (Group 2/Total Net Bid)

PARKS & RECREATION DEPARTMENT/GOLF DIVISION: Fescue and Rye Grass Seed.

BWI Springfield - \$ 9,423.00 (Group 1/Total Net Bid)
\$42,876.00 (Group 2/Total Net Bid)

Motion-- Brewer moved that the contract(s) be awarded as outlined above, same being the lowest and best bid,
--carried and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 388

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 30, 2004.

Bids were opened August 27, 2004, pursuant to advertisements published on:

Lateral 1, Main 7 Northwest Interceptor Sewer to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (468-83807/744074/480762) Does not affect existing traffic. (District V)

Nowak Construction - \$128,781.82

Water distribution system to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (448-89949/735210/470880) Does not affect existing traffic. (District V)

Nowak Construction - \$132,941.00

Water distribution system, Phase 1 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (448-89950/735211/470881) Does not affect existing traffic. (District V)

Nowak Construction - \$56,704.99

Water distribution system to serve Kiser West Addition - on 13th Street North, west of Greenwich. (448-89955/735197/470867) Does not affect existing traffic. (District II)

Padgett Excavation - \$36,539.00

127th Street East, from the north line of Boxthorn to the north line of The Fairmont to serve The Fairmont Addition - north of 21st Street North, west of 127th Street East. (472-83614/765872/ 490983) 127th Street East to be closed to thru traffic during construction. (District IV)

Cornejo & Sons Construction - \$93,000.00 (Negotiated to engineer's estimate)

Motion--

Brewer moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

--carried

FIRE DEPARTMENT/FIRE SAFETY DIVISION: Firefighter Protective Clothing.

Total Fire Group - \$110,681.60 (Group 1/total net bid)

Mid America Fire Apparatus & Equipment - \$3,828.00 (Group 2/total net bid)

Total Fire Group - \$841.50 (Group 3/total net bid)

Casco Industries, Inc. -\$747.50 (Group 4/total net bid)

\$847.50 (Group 4/Alternate A/total net bid)

Total Fire Group - \$15,064.00 (Group 5/Alternate A/total net bid)

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Playground Equipment & Surface Garvey Park.

ATHCO L.L.C. - \$29,253.00 (Group 1/Total net bid)

WATER & SEWER DEPARTMENT/SEWER MAINTENANCE DIVISION: Qudex Aluminaliner and Dynastone.

Quadex Inc. - \$20,163.36 (Group 1 total net bid)

FINANCE DEPARTMENT-IT/IS DIVISION: Microsoft Renewal Agreement RQ401526

Software House International - \$141,757.30*

*Utilizing the State of Kansas Contract #07359 for Software Purchases. Purchasing utilizing Government Entities Contracts, Cooperative Contracts and Agreements/Ordinance No. 38-122 Section 2.64.020 (j).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 389

Motion--
--carried

Brewer moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

CMB

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2004</u>	<u>(Consumption off Premises)</u>
Dao Q. Tran	B&H Fast Trips	2796 South Seneca
Stan Edde	Fallely's Inc./dba Food For Less #18	6727 West Central
Stan Edde	Fallely's Inc./dba Food For Less #23	2141 South Meridian
Stan Edde	Fallely's Inc./dba Food For Less #37	3020 East Douglas
Stan Edde	Fallely's Inc./dba Food For Less #38	640 North West Street
John F. Boyd	Oscos Drug #5111	2323 North Amidon
John F. Boyd	Oscos Drug #5135	4035 East Harry
John F. Boyd	Oscos Drug #5132	2501 South Seneca
James Smith	Farmers Market, Inc.	2901 North Broadway
Steven Byers	CB's Express Inc. #6	7115 West 13th Street
<u>New Operator</u>	<u>2004</u>	<u>(Consumption off Premises)</u>
Amain S. Muthana	Central Food Mart Inc.	2900 East Central
Mike L. Jan	K & O Quickshop #29	11931 West Central
<u>New Operator</u>	<u>2004</u>	<u>(Consumption on Premises)</u>
Angela Lee Ray	El Matador Lounge	2033 South Broadway
<u>Special Events</u>	<u>September 17,18,19, 2004</u>	
Jaya Escobar	Compadres Gran Fiesta Patria	2141 North Market
Juanita A. Albert	<u>September 18, 2004</u> Artichoke (Chili & BBQ Cook-off)	Old Town Parking Lots 9 & 10

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion
--carried

Brewer moved that the licenses subject to Staff review and approval be approved. Motion carried 6 to 0, (Schlapp absent).

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) 2004 Sanitary Sewer Rehabilitation, Phase E - north of 31st Street South, between Broadway and 143rd Street East, (468-83851/620414/664534) Traffic to be maintained during construction using flagpersons and barricades. (Districts I, II, III) - \$300,000
- b) Water distribution system to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (448-89817/735207/470877) Does not affect existing traffic. (District V) - \$60,000
- c) Victoria from Marie, north to 44th Street South; Marie from the east line of Lot 3, Block B, east to Greenwood; 44th Street South from the west line of Lot 1, Block D, east to Hydraulic; Greenwood from 45th Street South, north to 44th Street South to serve Hidden Glen Addition - north of 47th Street South, west of Hydraulic. (472-83625/765883/490994) Does not affect existing traffic. (District III) - \$228,000

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 390

Motion--
-- carried

Brewer moved that the Preliminary Estimates be received and filed. Motion carried 6 to 0, (Schlapp absent).

DEEDS/EASEMENTS

DEEDS AND EASEMENTS:

- a) Sanitary Sewer Easement dated October 21, 2002 from Gilbert L. and Lisa A. Perez for a tract of land located in the Southwest Quarter of Section 2, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (Main 20, SWI, OCA #744056). No cost to City.
- b) Utility Easement from the City of Wichita, Kansas, a Municipal Corporation for a tract of land located in Lot 9, Block 1, Regency Park Addition, an addition to Wichita, Sedgwick County, Kansas (1050 PPW, OCA #607853). No cost to City.
- c) Utility Easement from the City of Wichita, Kansas, a Municipal Corporation for a tract of land located in Lot 9, Block 1, Regency Park Addition, an addition to Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- d) Water Easement dated August 5, 2004, from Jarold E. Smith for a tract of land located in the Southwest Quarter of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (Project 448-89924, OCA #735176). No cost to City.
- e) Water Easement dated August 14, 2004, from Arnold J. Lambertz for a tract of land located in the Northwest Quarter of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (Project 448-89924, OCA #735176). No cost to City.
- f) Sanitary Sewer Easement dated August 6, 2004, from Charlotte Smith for a tract of land located in Lot 17, Block 2, Bartlow Second Addition to Wichita, Sedgwick County, Kansas, (Lat32, M2, SWI, OCA #744070). No cost to City.
- g) Waterline Easement dated July 28, 2004, from Raytheon Aircraft Company for a tract of land located in the Southeast Quarter of Section 9, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas (Private Project, OCA #735197). No cost to City.

Motion--carried

Brewer moved that the Deeds and Easements be accepted. Motion carried 6 to 0, (Schlapp absent).

21ST AT ROCK RD.

CHANGE ORDER - 21ST STREET AT ROCK ROAD INTERSECTION IMPROVEMENT. (DISTRICT II)

Agenda Report No. 04-0857

On July 16, 2002, the City Council approved a construction contract with Ritchie Paving to improve the intersection of 21st at Rock Road. During construction of the project, a number of unforeseen items developed that should be addressed as a Change Order:

Traffic signal conduit was relocated to avoid conflict with a newly designed valley gutter. The signal pole bases were enlarged to accommodate longer mast arm lengths. \$15,477

Illuminated arrow boards were rented to help direct traffic through the construction zone. \$5,560

Medians were landscaped rather than completely filled with brick. \$8,370

Block retaining walls were constructed rather than gray concrete walls. Additional retaining walls were needed as well as an additional driveway approach. \$12,365

A storm sewer inlet was added at the southwest corner of the intersection to improve drainage. \$6,500

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 391

Large thermal cracks were encountered in existing pavement that was to be over-laid with asphalt. A grid fabric was added to prevent reflective cracking of the new pavement. \$9,450

Additional thermo-plastic pavement marking was needed to provide vehicular warning stop bars at the intersection. Additional sod was required to restore grassed area disturbed by sidewalk and irrigation meter installation. \$7,639

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The cost of the additional work is \$65,351, with the total paid by a combination of City-at-Large (\$13,070.20) and Federal Grants administered by the Kansas Department of Transportation (\$52,280.80). The original contract is \$1,745,803. This Change Order plus two previously approved Change Orders represents 4.47 % of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Brewer moved that the Change Order be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

ROCK RD IMP.

CHANGE ORDER - ROCK ROAD IMPROVEMENT, BETWEEN 21ST STREET AND 29TH STREET. (DISTRICT II)

Agenda Report No. 04-0858

On May 18, 2004, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve Rock Road between 21st and 29th Streets. A part of the work includes replacing existing 4-foot wide sidewalk that is in conflict with the project. Due to the crowded nature of the utility corridor, necessary utility relocations resulted in the need to remove additional sidewalk. The older 4-foot wide sidewalk will be replaced with the current 5-foot wide standard sidewalk. The amount of new sidewalk needed exceeds the amount expected at the time the project was designed.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The cost of the additional work is \$68,870.40, with the total paid by a combination of City-at-Large (\$13,774.08) and Federal Grants administered by the Kansas Department of Transportation (\$55,096.32). The original contract is \$1,455,771. This Change Order plus previous Change Orders represent 4.84% of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Brewer moved that the Change Order be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

WATERLINE

CHANGE ORDER - WATERLINE REPLACEMENT IN AN AREA BOUNDED BY LINCOLN, KELLOGG, QUENTIN, AND EDMOOR. (DISTRICT III)

Agenda Report No. 04-0859

On February 4, 2003, the City Council approved a construction contract to replace waterlines in an area bounded by Lincoln, Kellogg, Quentin, and Edgemoor. A part of the work includes the replacement of water service lines to metered homes and businesses. During the design phase of the water main replacement project, the number of water service replacements to be done are estimated based on Water Department records. The decision to replace a water service line is made during construction of the

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 392

project based on the existing condition of the service line. In the case of this project, more service lines had to be replaced than anticipated. The number of service lines needed exceeded the number expected at the time the project was designed.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The total cost of the additional work is \$27,250, with the total paid by the Water Utility. The original contract is \$1,220,426. The Change Order represents 2.23% of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Brewer moved that the Change Order be approved and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

BRENTWOOD SOUTH PETITION TO CONSTRUCT A SANITARY SEWER FOR BRENTWOOD SOUTH SECOND ADDITION, NORTH OF PAWNEE, EAST OF WEBB. (DISTRICT II)

Agenda Report No. 04-0860

On May 18, 2004, the City Council approved a Petition to construct a sanitary sewer for Brentwood South 2nd Addition. An attempt to award a contract within the budget set by the petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located north of Pawnee, east of Webb.

The existing Petition totals \$78,000. The new Petition totals \$114,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-443

A Resolution amending Resolution No. 04-249 pertaining to improve Lateral 369, Four Mile Creek Sewer (north of Pawnee, east of Webb) 468-83802, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

HIGHLAND SPGS. PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE HIGHLAND SPRINGS THIRD ADDITION, WEST OF 135TH STREET WEST, SOUTH OF CENTRAL. (DISTRICT V)

Agenda Report No. 04-0861

On April 13, 2004, the City Council approved a Petition to construct a sanitary sewer to serve Highland Springs 3rd Addition. It has since been determined that several of the lots in the improvement district have already been served by a previous sanitary sewer project and should not be included in the improvement district. The developer has submitted a new Petition to remove the lots. The signature on the new Petition represents 100% of the improvement district.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 393

The project will serve a new residential development located west of 135th Street West, south of Central.

The project budget is unchanged.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-444

Resolution of findings of advisability and Resolution authorizing improving of Lateral 37, Cowskin Interceptor Sewer (east of 135th Street West, south of Central) 468-83634) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

STORM WATER

PETITION TO CONSTRUCT A STORM WATER DRAIN FOR AN UNPLATTED TRACT LOCATED SOUTH OF 29TH STREET NORTH, WEST OF MAIZE. (DISTRICT V)

Agenda Report No. 04-0862

On June 8, 2004, the City Council approved a Petition to construct a storm water drain for an unplatted tract located south of 29th Street North, west of Maize. The scope of the project has since been expanded to include a more extensive pumping system. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

The project will serve an expansion of the New Market Square Shopping Center.

The existing Petition totals \$263,000. The new Petition totals \$485,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-445

A Resolution amending Resolution No. 04-282 pertaining to improve Storm Water Drain No. 234 (south of 29th Street North, west of Maize) 468-83834, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

EVERGREEN/ NEW MARKET SQ.

PETITION TO CONSTRUCT A STORM WATER SEWER TO SERVE EVERGREEN AND NEWMARKET SQUARE ADDITIONS, NORTH OF 21ST STREET, WEST OF MAIZE. (DISTRICT V)

Agenda Report No. 04-0863

On June 8, 2004, the City Council approved a Petition to construct a storm water sewer to serve Evergreen and Newmarket Square Additions. An attempt to award a contract within the budget set by the petition was not successful. The developer has submitted a new Petition with an increased budget. The signatures on the new Petition represent 100% of the improvement district.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 394

The project will serve a new commercial development located north of 21st, west of Maize.

The existing Petition totals \$100,000. The new Petition totals \$157,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-446

A Resolution amending Resolution No. 04-283 pertaining to improve Storm Water Sewer No. 608 (north of 21st, west of Maize) 468-83827, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

TRAFFIC SIGNALS

PETITION TO INSTALL TRAFFIC SIGNALS AT THE INTERSECTION OF MAIZE AT CENTRAL PARK STREET, NORTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 04-0864

The City's projects that are funded by special assessments are bonded under the authority of Kansas Statute 12-6a01. The petitions and resolutions associated with such projects are routinely reviewed by the State Attorney General's office. The City's Bond Counsel has advised that a petition and resolution to install traffic signals at the intersection of Maize at Central Park Street (north of 21st), which were approved on March 2, 2004, need to be revised to reflect an amendment to State Statutes. The amendment provides more flexibility in the determination of improvement district boundaries.

A new petition has been obtained, which has been signed by the owner of all land in the improvement district. The new petition contains the updated statutory reference.

The project budget is unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-447

Resolution of findings of advisability and Resolution authorizing construction improving a traffic signal at the intersection of Maize Road and Central Park Street (north of 21st, west of Maize) 472-83957, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

TRAFFIC SIGNALS

PETITION TO INSTALL TRAFFIC SIGNALS ON GREENWICH ROAD, APPROXIMATELY 850 FEET NORTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 04-0865

The City's projects that are funded by special assessments are bonded under the authority of Kansas Statute 12-6a01. The petitions and resolutions associated with such projects are routinely reviewed by the State Attorney General's office. The City's Bond Counsel has advised that a petition and resolution

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 395

to install traffic signals on Greenwich Road, approximately 850 feet north of 21st, which were approved on February 10, 2004, need to be revised to reflect an amendment to State Statutes. The amendment provides more flexibility in the determination of improvement district boundaries.

A new petition has been obtained, which has been signed by the owner of all land in the improvement district. The new petition contains the updated statutory reference.

The project budget is unchanged.

Motion--
carried

Brewer moved that the Petition be approved and the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-448

Resolution of findings of advisability and Resolution authorizing constructing a traffic signal on Greenwich Road for a "T" intersection located approximately 850 feet north of 21st Street North, 472-83955, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

HARVEST RIDGE

PETITIONS FOR SANITARY SEWER MAIN AND WATER DISTRIBUTION SYSTEM TO SERVE HARVEST RIDGE ADDITION, SOUTH OF 31ST STREET SOUTH, WEST OF MAIZE. (DISTRICT IV)

Agenda Report No. 04-0866

On July 15, 2003, the City Council approved Petitions for a sanitary sewer main and water distribution system to serve Harvest Ridge Addition. The developer has submitted new Petitions to reallocate special assessments within the improvement districts. The signature on the new Petitions represents 100% of the improvement districts.

The projects will serve a new residential development located south of 31st Street South, west of Maize.

The project budgets are unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petitions be approved and the Resolutions be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-449

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89849 (west of Maize, south of 31st Street South) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans

RESOLUTION NO. 04-450

Resolution of findings of advisability and Resolution authorizing improving of Main 5, Cowskin Interceptor Sewer, 468-83658 (west of Maize, south of 31st Street South) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 396

RIDGE PORT NORTH PETITIONS FOR SANITARY SEWER AND WATER DISTRIBUTION SYSTEM TO SERVE PART OF LOT 2, RIDGE PORT NORTH ADDITION, EAST OF RIDGE, SOUTH OF 37TH STREET SOUTH. (DISTRICT V)

Agenda Report No. 04-0867

The Petitions have been signed by one owner, representing 100% of the improvement districts.

These projects will provide sanitary sewer and water service to an undeveloped commercial tract located east of Ridge, south of 37th Street North.

The Petitions total \$42,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petitions be approved and the Resolutions be adopted. Motion carried 6 to 0, (Schlapp absent).

RESOLUTION NO. 04-451

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89997(east of Ridge, south of 37th Street North) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

RESOLUTION NO. 04-452

Resolution of findings of advisability and Resolution authorizing construction of Lateral 17, Main 19, Southwest Interceptor Sewer, 468-83875 (east of Ridge, south of 37th Street North) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

SOUTHERN RIDGE PETITIONS FOR STREET PAVING, DRAINAGE IMPROVEMENTS, AND WATER DISTRIBUTION SYSTEMS TO SERVE SOUTHERN RIDGE ADDITION, SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT IV)

Agenda Report No. 04-0868

On December 17, 2002 and February 4, 2003, the City Council approved Petitions for street paving, drainage improvements and water distribution systems in Southern Ridge Addition. Since that time, the developer has divided a number of lots to reflect current home marketing conditions. The developer has submitted new Petitions to reallocate special assessments to accommodate the change in building site boundaries. The signatures on the petitions represent 100% of the improvement districts.

The projects will serve a new residential development located south of Pawnee, west of Maize.

The project budgets are unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--
carried

Brewer moved that the Petitions be approved and the Resolutions be adopted. Motion carried 6 to 0, (Schlapp absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 397

RESOLUTION NO. 04-453

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89765, (South of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

RESOLUTION NO. 04-454

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 195 (south of Pawnee, west of Maize) 468-83550, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

RESOLUTION NO. 04-455

Resolution of findings of advisability and Resolution authorizing improving of Storm Water Sewer No. 580 (south of Pawnee, west of Maize) 468-83551, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

RESOLUTION NO. 04-456

Resolution of findings of advisability and Resolution authorizing improving Lark from the south line of Pawnee Avenue to the south line of Atlanta, on Atlanta from the east line of Lark Lane, east to and including the cul-de-sac, on Westgate, from the south line of Atlanta Ct., south to the west line of Plat, on Westgate Ct., (Lots 22 through 39, Block A), from the east line of Westgate, east to and including the cul-de-sac, on Yosemite from the west line of Maize Rd., west to the west line of the plat, on Yosemite Ct., from the north line of Yosemite, north to and including the cul-de-sac, on Lamp, from the north line of Yosemite north, to and including the cul-de-sac. Sidewalk on Lark, Atlanta, Westgate, Yosemite, and within Reserve "C", (south of Pawnee, west of Maize) 472-83681, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

STREET CLOSURE 37TH STREET, EAST OF BROADWAY AND WASHINGTON, SOUTH OF SOUTHEAST BOULEVARD. (DISTRICTS VI AND I)

Agenda Report No. 04-0869

The Burlington Northern Santa Fe Railroad (BNSF) has tentatively scheduled the reconstruction of railroad crossings on 37th Street North, east of Broadway and Washington, south of Southeast Boulevard during the week of August 30th through September 3rd. Although it has not yet been decided which location will be accomplished first, BNSF is requesting a 2 to 3 day closure at each location. During the closure, the railroad will remove the existing track structure and install new ballast, ties, rails and crossing material. The closures are contingent on acceptable weather conditions to be able to complete the work.

During the 37th street closure, traffic will be detoured using Broadway, 29th and Ohio Streets. During the Washington Street closure, traffic will be detoured using Southeast Boulevard and Harry Street. The railroad is responsible for the placement of construction signs and barricades and notification of area businesses and residents.

There are no financial considerations.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 398

Motion--carried Brewer moved that the street closures be approved. Motion carried 6 to 0, (Schlapp absent).

STREET CLOSURE WICHITA BLACK ARTS FESTIVAL.

Agenda Report No. 04-0894

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

Wichita Black Arts Festival – September 4, 5, and 6
15th Street from Ohio to the Canal Route
8:00 a.m. – 10:00 p.m. Saturday & Sunday, September 4 & 5
8:00 a.m. – 11:00 p.m. Monday, September 6

Police security is arranged to remove blockades as necessary to allow emergency vehicle access during entire designated time period

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion-- Brewer moved that the street closures be approved, subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets.
--carried Motion carried 6 to 0, (Schlapp absent).

CLAIMS ALLOWED REPORT ON CLAIMS ALLOWED – JULY 2004:

<u>Name of Claimant</u>	<u>Amount</u>
Gartrell, Earl	\$750.00
Machalek, Joe	\$1400.00**
Peterson, Kathy	\$466.66

**Settled for lesser amount than claimed.

Motion--carried Brewer moved that the Report be received and filed. Motion carried 6 to 0, (Schlapp absent).

EXPENSE REPORT EXPENSE FOR SENIOR MANAGEMENT FOR MONTH OF JULY 2004.

Motion--carried Brewer moved that the Report be received and filed. Motion carried 6 to 0, (Schlapp absent).

SECURITY ELECTRONIC SECURITY.

Agenda Report No. 04-0870

In compliance with federal law, a Vulnerability Assessment has been conducted for the Water & Sewer Department. The assessment made specific and general recommendations as to how the Department could reduce vulnerability to criminal and terrorist acts.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 399

One major recommendation was the enhancement of electronic security. Such enhancements would include card reader access, camera systems, motion detection, infrared detection and microwave detection. These devices would be incorporated into the City's iNet 7 Security System.

Because of the nature of the Department's computer network, specialized knowledge of the Supervisory Control and Data Acquisition (SCADA) network is required. Requests for Statements of Qualifications were sent to security and engineering firms, with ten firms responding. The Staff Screening and Selection Committee selected the three most qualified to provide detailed proposals. The City's Security Advisory Team reviewed the proposals and provided comments to the Staff Screening & Selection Committee. The committee selected the firm of Burns & McDonnell Engineering Company, Inc. to provide professional services.

The Agreement for design services is \$120,960. Security Enhancements (CIP W-903) has a budget of \$500,000 for 2004.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp absent).

COLLECTOR WALL HYDROGEOLOGIC INVESTIGATIONS FOR A HORIZONTAL COLLECTOR WALL.

Agenda Report No. 04-0871

On October 3, 2000, City Council authorized projects to begin the development of new water supplies for the City. The projects will develop water supplies for the City's needs through the year 2050. One of the authorized projects was the expansion of the local well field.

The Integrated Local Water Supply Plan includes utilizing several local water supply sources. The Plan recognizes that not all of the potential water sources will be available for use at the same time and that combinations of sources will be required to meet the City's water supply needs. The Plan includes the construction of additional wells adjacent to the Little Arkansas River to capture above-base flow water from the river and treat it at the water treatment plant. The concept design for the local wellfield expansion predicts that "above base flow" water from the Little Arkansas River can be diverted at a rate of 27 MGD fifty percent (50%) of the time and that 37 MGD can be diverted forty percent (40%) of the time. Main components include:

- 1) Four horizontal collector wells with pump houses, three of which would be located adjacent to the floodway.
- 2) Five vertical wells with pumps and motors located along the Little Arkansas River, south of 17th Street North.
- 3) Collection pipelines to transport the water to the water treatment plant.

The first of the proposed wells is to be a horizontal collector well located near 37th and Womer. Several key issues need to be addressed before the well can be constructed. These include confirming that the aquifer adjacent to the Little Arkansas River is influenced by flows in the river, determining what type of production can be expected from the well, evaluating potential water quality problems associated with water from these wells, and obtaining the appropriate data to support the application for a water appropriation.

A hydrogeologic study is needed to collect hydrogeologic information for the design of the well, prior to issuing a Request for Proposal for the design/build project. Additionally, the study would collect the hydrogeologic information needed to apply for a water appropriation from the State of Kansas.

A Request for Proposal was issued for the Hydrogeologic Study, and the City received proposals from three teams: 1) Burns & McDonnell/Collector Wells International; 2) CDM/Bennett and Williams; and 3) Reynolds Inc., S.S. Papadopoulos & Associates/GBL Services and PEC. The Staff Screening and Selection Committee met June 9, 2004. After reviewing and evaluating the tasks and services in each proposal, including the modeling needed for the water appropriation applications, the committee unanimously recommended Burns & McDonnell/ Collector Wells International.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 400

Two contractors in the United States construct horizontal collector wells. Due to this, and the fact that each uses different approaches and techniques, Staff recommends that this project be done as a design/build. The contract would acquire the engineering services to design the well and additionally, to construct the needed improvements. Using the design/build approach, the engineer and contractor work together to develop the most effective design using the information collected in the hydrogeologic study. Design/build will help to reduce cost, expedite completion of the well and the facilities needed to operate the well.

Cost for the hydrogeologic study will not exceed \$113,931. Estimated cost for local well field expansion is around \$16 million. Estimated cost for the first horizontal collector well is \$5.4 million which will be a prototype for the rest of the project. CIP W-549 (Water Supply Plan Phase III) has a budget of \$70.6 million through 2005 for construction of water supply facilities.

In accordance with Charter Ordinance 111, City Council approval is required for projects done as design/build.

Motion--
--carried

Brewer moved that the Agreement/Contract and the design/build project be approved; and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

PROJECT ACCESS

PROJECT ACCESS.

Agenda Report No. 04-0872

Since 1999, the City in partnership with the Sedgwick County Medical Society, United Way, and the County, has participated in Project Access, which is a program that provides medical services for the uninsured. This innovative program involves a community partnership that links physicians, social service agencies, hospitals, clinics, and area pharmacies to address the needs of uninsured low-income residents. The current contract between the City and the Central Plains Regional Health Care Foundation, Inc. (the non-profit organization responsible for Project Access) is to provide funds for prescription services. This contract is due to expire on August 31, 2004 with no more available options to renew. A recommendation to issue a new one-year contract that runs through August 31, 2005 is being brought before the City Council.

The City, Sedgwick County, and United Way have supported Project Access, and have financially participated in the program since it became operative. Project Access is a vital part of a network that serves uninsured Sedgwick County individuals, which are estimated to constitute a local uninsured base of 55,000 persons, representing approximately 13 percent of the area population. Each year of operation there has been an increasing demand for Project Access services. From September 2001 through February 2004, 4,902 individuals were enrolled into the program and have received donated medical care and services.

This program has been a model of public and private sector collaboration. The City and County program contributions, which provide for prescription services, are matched by participation of the local medical community. Prescriptions purchased from the program's inception through February 2004 total \$1,817,514 with 80,904 prescription claims filed. Currently 545 physicians and eight local hospitals are committed to donate services through Project Access. The value of this contributed care through February of 2004 is \$8,767,449 in total donated physician services and \$21,163,783 in total donated hospital services, not including additional labs, ambulatory surgery centers, and other ancillary services. Other participating providers include 65 pharmacies that fill prescriptions at 15% below average wholesale price and do not receive payment for filling these prescriptions. Measures of the program's success include high satisfaction ratings for patients and participating physicians, the development of collaborative partnerships, successful replication of the program in other locales, and the number of persons receiving needed medical services.

The contract total is \$300,000, the same amount provided for the 2003/04-contract period. The City will use federal Community Services Block Grant (CSBG) funds it receives to serve low-income persons to pay the contract costs. The contract renewal will not obligate general fund monies.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 401

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

LIBRARY MOU

PLANEVIEW COMMUNITY LIBRARY MEMORANDUM OF AGREEMENT. (DISTRICT III)

Agenda Report No. 04-0873

Since the summer of 2003, public library service for the Planeview neighborhood has been delivered through a partnership between Colvin Elementary School and the Wichita Public Library. A memorandum of agreement establishes the framework for shared decision-making concerning the design and delivery of library service. The original agreement was for a twelve-month period with a requirement that the document be reviewed on an annual basis. Staff from the school district and the public library have completed the review process and have reached consensus on a revised agreement to guide operation for the 2004-2005 year.

The first year of operation under the agreement resulted in more efficient delivery of library service to the customers of this facility. Through the first six months of 2004, a total of 3,157 items were loaned to public customers of the library. Use is equally divided between children and adults. The Library Board has reviewed the agreement and recommends approval.

The agreement assumes continuation of the City's materials budget for the Planeview Library at \$5000 per year. More than 10,000 city-owned items remain in the shared library collection. Assistance with special programs has been incorporated into the public library's youth outreach service schedule. Costs to transport public library materials to and from the library are incorporated into the Library's branch delivery route. All other operational expenses are the responsibility of the school district. The agreement has been reviewed and approved by the Budget Office.

Motion--
--carried

Brewer moved that the City's participation in the partnership for an additional year be endorsed; and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

K-254

K-254 CORRIDOR STUDY COALITION INTERLOCAL AGREEMENT.

Agenda Report No. 04-0874

On July 13, 2004, the City Council adopted a resolution authorizing the City's participation in the K-254 Corridor Study Coalition and approved funding in the amount of \$2,250. The K-254 Corridor Study Coalition includes Sedgwick County, Butler County and the cities of Bel Aire, Benton, El Dorado, Kechi, Towanda and Wichita. It was formed for the purpose of studying the economic development potential of the K-254 highway corridor between Wichita and El Dorado. In order for the joint-powers entity to have the legal authority to contract with a consultant to carry out the corridor study, the governmental jurisdictions comprising the entity must enter into an inter-local agreement.

The inter-local agreement establishes the legal authority for the K-254 Corridor Study Coalition to contract with private consultants for the purpose of conducting a study of the economic potential of the K-254 corridor from Wichita to El Dorado. It also established a steering committee comprised of one representative and one alternate representative from each Coalition member. The steering committee is empowered to solicit proposals from consultants and make a selection.

The cost of the Study is estimated not to exceed \$60,000.00. The City of Wichita's share will not exceed \$2,250.00, to be funded from the economic development fund. Sedgwick County and Butler County's share will not exceed \$22,500.00 each. Each participating city will contribute an additional \$2,250.00.

State law also requires review and approval of inter-local agreements by the Kansas Attorney General.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 402

Motion-- Brewer moved that the inter-local agreement be approved; that the Mayor be authorized to sign; and that Allen Bell be designated to serve as the City's representative to the K-254 Corridor Study Coalition and Lisa Jones be designated to serve as alternate. Motion carried 6 to 0, (Schlapp, absent).
--carried

HIDDEN GLEN

CONSTRUCTION ENGINEERING AND STAKING IN HIDDEN GLEN ADDITION, WEST OF HYDRAULIC, SOUTH OF 44TH STREET SOUTH. (DISTRICT II) – SUPPLEMENTAL.

Agenda Report No. 04-0875

The City Council approved the water distribution system, sanitary sewer, storm water sewer and paving improvements in Hidden Glen Addition on February 10, 2004. On July 13, 2004, the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Baughman provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment to Baughman will be on a lump sum basis of \$26,450, and will be paid by special assessments.

Motion-- Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).
--carried

KRUG NORTH

STAKING IN KRUG NORTH ADDITION, NORTH OF 21ST STREET, WEST OF 143RD STREET EAST. (DISTRICT II) – SUPPLEMENTAL.

Agenda Report No. 04-0876

The City Council approved the storm water drainage improvements in Krug North Addition on April 13, 2004. On May 18, 2004, the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Baughman provides staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to Baughman will be on a lump sum basis of \$6,600, and will be paid by special assessments.

Motion-- Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp absent).
--carried

DESIGN SERVICES

CENTRAL FROM WOODLAWN TO ROCK ROAD. (DISTRICT II) – SUPPLEMENTAL.

Agenda Report No. 04-0877

On April 16, 2002, the City entered into an Agreement with Ruggles & Bohm, P.A. (R&B) for designing improvements to Central from Woodlawn to Rock Road. The fee was \$124,260. On July 15, 2003, the City Council approved Supplemental Agreement No. 1, which requested R&B to extend the sanitary sewer farther east to Broadmoor. The fee for this additional work was \$2,200.

R&B now needs to make some changes to the plans as a result of right-of-way negotiations with adjacent property owners. These changes affect the median designs and acceleration/deceleration lanes on the east leg of the Central at Woodlawn intersection.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 403

Payment to R&B will be on a lump sum basis of \$6,800, and will be paid by General Obligation Bonds.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

SAND PLUM

AGREEMENT FOR DESIGN SERVICES - SAND PLUM ADDITION, SOUTH OF 45TH STREET NORTH, WEST OF WEBB. (DISTRICT II)

Agenda Report No. 04-0878

The City Council approved the water distribution system, sanitary sewer and paving improvements in Sand Plum Addition on May 18, 2004.

The proposed Agreement between the City and AM Consulting, Inc. provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Sand Plum Addition. Per Administrative Regulation 7a, staff recommends that AM Consulting be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to AM Consulting will be on a lump sum basis of \$32,500 and will be paid by special assessments.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

SHADOW WOODS

AGREEMENT FOR DESIGN SERVICES - SHADOW WOODS ADDITION, WEST OF 135TH STREET WEST, NORTH OF MAPLE. (DISTRICT V)

Agenda Report No. 04-0879

The City Council approved the water distribution system and paving improvements in Shadow Woods Addition on May 6, 2003.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water distribution system and paving in Shadow Woods Addition. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$20,100, and will be paid by special assessments.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

REGENCY PARK

AGREEMENT FOR DESIGN SERVICES - REGENCY PARK ADDITION, NORTH OF 21ST STREET, WEST OF GREENWICH. (DISTRICT II)

Agenda Report No. 04-0880

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Regency Park Addition on June 17, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer, storm water drainage and paving in Regency Park Addition. Per Administrative Regulation 7a, staff

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 404

recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$31,200 and will be paid by special assessments.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

SHADY RIDGE

AGREEMENT FOR DESIGN SERVICES - SHADY RIDGE ADDITION, SOUTH OF CENTRAL, EAST OF RIDGE. (DISTRICT V)

Agenda Report No. 04-0881

The City Council approved the water distribution system, sanitary sewer and paving improvements in Shady Ridge Addition on June 8, 2004.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer and paving in Shady Ridge Addition. Per Administrative Regulation 7a, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$10,100, and will be paid by special assessments.

Motion--
--carried

Brewer moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

PROPERTY ACQ.

ACQUISITION OF PORTIONS OF THE ABANDONED UNION PACIFIC RAIL CORRIDOR FOR THE MIDTOWN GREENWAY. (DISTRICT VI)

Agenda Report No. 04-0882

In 1999, the Union Pacific Railroad abandoned the rail corridor that runs from Central Avenue and Wichita Street to Broadway and 15th Street North. Through this abandonment, rights to the corridor reverted to the adjacent property owners on both sides. The City has reviewed the former corridor and decided that it could be utilized to develop a greenway/lineal park connecting Horace Mann, Irving and Park Schools and the bicycle path on Central. In April 2002, the City Council approved \$74,000 in CDBG funding to acquire portions of the abandoned Union Pacific corridor from Central to 15th Street from adjacent property owners.

Due to their size and configuration, the tracts being acquired are not developable by themselves. The majority of the tracts abut developed properties but lie outside the fenced, defined boundaries of the properties. The purchase price of similar tracts was reviewed to estimate market value. These amounts were offered to the adjacent property owners with several accepting the offers. The contracts represent five tracts with a total value of \$3,500.

A budget of \$3,600 is requested, consisting of \$3,500 for acquisition and \$100 for recording fees. The funding source is previously approved CDBG funds.

Motion--
--carried

Brewer moved that the budget and contracts be approved; and the necessary signatures be authorized. Motion carried 6 to 0, (Schlapp, absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 405

LEASE AMENDMENT AMENDMENT TO LEASE OF ANTENNA SITE ON MCLEAN MANOR. (DISTRICT VI)

Agenda Report No. 04-0883

In March 2000, the City entered into a lease with Cellular One (now Verizon Wireless) allowing the placement of an wireless antenna array on the roof of McLean Manor at 2627 West 9th Street. McLean Manor is an eight-story apartment complex operated by the Wichita Housing Authority. The original lease term was ten years with annual rent of \$10,000 for years one through three, \$12,000 in years four and five and \$13,800 for the remainder of the term. Verizon has requested that they be allowed to place a modified antenna array on the roof. This array will occupy more roof space than the existing system but room is available.

Because the new array utilizes more roof space, a rent increase was negotiated with Verizon. Commencing with the completion of modifications to the array, rent will increase to \$1,750 per month (\$21,000 per year). This amount shall increase on April 1 of each year by three percent. The lease term was also extended an additional ten years and the new installation defined. These changes were memorialized in a lease amendment.

The City will receive rent revenues as described above. The lessee shall be responsible for all costs of installation, operation and maintenance of the facility.

Motion--
--carried

Brewer moved that the amendment be approved and the necessary signatures authorized. Motion carried 6 to 0, (Schlapp absent).

2244 N. ROCK ROAD AMENDMENT OF LEASE FOR SPACE AT 2244 NORTH ROCK ROAD FOR LIBRARY USE. (DISTRICT II)

Agenda Report No. 04-0884

In November 1995, the City and Dillon Companies entered into a lease allowing the use of a portion of the Dillon Store at 2244 North Rock for use by the Wichita Public Library. The lease calls for no rent and has a term ending October 31, 2006. As part of the library board's branch plan update, the library requested that inquiries be made concerning the availability of the leased space beyond the end of the lease term.

Dillon indicated that they had no near term plans for the store that would impact the libraries usage. They suggested that an extension be drafted adding two years to the lease term with an additional two-year option under the existing terms and conditions. This extends the lease to October 2008 with an option to extend to October 2010.

The extension has no financial impact.

Motion--
--carried

Brewer moved that the Amendment to the Lease Agreement be approved and the necessary signatures authorized. Motion carried 6 to 0, (Schlapp absent).

DYNIX SUPPORT PROFESSIONAL SERVICES AGREEMENT WITH DYNIX SUPPORT.

Agenda Report No. 04-0885

In 2000, the Wichita Public Library purchased a new server from Dynix, Inc. for the Library's online catalog system. In 2002, IT/IS assumed responsibility for the day-to-day computer operations at the Library. At the end of 2003, the Library joined the City of Wichita's Network. The library server was moved to the data center to provide better security and system support. This server will reach the end of its life and support cycle from the vendor on Oct. 31, 2004 and must be replaced. A new Windows-based server has been purchased which meets IT/IS standards as well as the vendor's requirements. The change in software will require the services of Dynix staff for installation and database conversion.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 406

Dynix staff will be responsible for installing the automation software on the new server and moving and converting the database. The vendor will prepare the server for installation and will send a technician to Wichita to complete the final data transfer and conversion from the old system to the new system. The Library is expected to be without use of the Dynix library automation system, including the online catalog and the TeleCirc notification system, for a period of two days while the conversion takes place.

The cost for the professional services agreement with Dynix will be \$11,850. This amount includes \$6,500 for data conversion and \$5,350 for server staging and integration services. The Library Board has authorized use of funds from current grants to pay for the services.

Contracts exceeding \$10,000 require City Council approval.

Motion--
--carried

Brewer moved that the expenditure and vendor for the services quoted be approved. Motion carried 6 to 0, (Schlapp absent).

AQUIFER STORAGE MEMORANDUM OF UNDERSTANDING: AQUIFER STORAGE & RECOVERY PROJECT, PHASE 1.

Agenda Report No. 04-0886

On August 31, 1993, the Council approved, and instructed staff to implement, the Integrated Local Water Supply (ILWS) Plan recommended in the Water Supply Plan. On October 3, 2000, the City Council authorized several projects to begin the development of new water supplies for the City included in the ILWS Plan.

The ILWS Plan includes utilizing several local water supply sources. A major component of the ILWS Plan is the recharge of the Equus Beds Wellfield, by using water from the Little Arkansas River. The ILWS Plan envisions capturing up to 100 million gallons per day from the Little Arkansas River during excess flow events in the river, and storing up to 65 billion gallons of water in the aquifer. Phase 1 of the recharge project will utilize seven bank storage wells adjacent to the Little Arkansas River to capture up to 10 million gallons per day, and use three recharge and recovery wells and three recharge basins to recharge the aquifer. These recharge facilities will be sited near a salt-water plume that is threatening the water quality of City's wellfield, and the recharged water will start the development of hydraulic barrier to retard eastward movement of that salt-water plume.

The City is required to obtain water appropriations from the State of Kansas in order to withdraw water from the Little Arkansas River, and to develop an aquifer storage and recovery system. The City has submitted the appropriate applications to the State, however the process to get approval for those applications includes a review by the Equus Beds Groundwater Management District No. 2. (GMD2), and a subsequent recommendation from GMD2. GMD2 is a geopolitical entity that is charged with management of the Equus Beds aquifer. The GMD2 Board includes representatives from the agricultural community as well industrial and municipal water users. City staff has worked closely with GMD2 and the public over the years to try to address the concerns that should be expected when an innovative project such as the ILWS Plan is proposed.

On July 20, 2004 GMD2 held a special meeting to review the water appropriation applications that the City has submitted for Phase 1 of the Aquifer Storage and Recovery Project. Members of the Board expressed reservations about the project although they also expressed support for the benefits of the project. During that meeting City staff offered to meet with representatives of GMD2 to address the concerns and resolve them. As a result of meetings with GMD2 representatives and City staff, a Memorandum of Understanding (MOU) was developed that addresses the primary issues of concern. GMD2 has reviewed the MOU, and voted unanimously on August 10, 2004 to accept the MOU and recommend approval of the City's water right appropriation applications with the commitments included in the MOU.

The MOU contains a number of commitments from the City and GMD2 that would be implemented if the water right appropriations were approved by the State. Those commitments include:

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 407

- Using direct river withdrawals to provide at least 60 million gallons per day, and a corresponding reduction in the number of wells used to capture surface water.
- A commitment to construct a shallow test well adjacent to the river.
- The diversion wells will be constructed to allow water from the shallow zone of the aquifer to be captured, as well as to capture water from the deeper zone.
- A commitment to accept a four-year special condition clause in the appropriations. At the end of the four year period the performance of the wells would be re-evaluated and the Division of Water Resources could order a change in the operation of the wells, order the City to cease operation of the wells, or allow the project to continue.
- The City will provide a grant of up to \$20,000 per year to GMD2 for the first four years of the project to cover the extraordinary expenses that GMD2 will have to administer and monitor the project.
- At the end of the first four years of operation the City and GMD2 will review and evaluate how effective the project has been at deterring the movement of the salt-water plume.
- The City will only recharge water that meets drinking water standards, and will not degrade the ambient use of the water. If the City's recharge project degrades the water quality to a level that it then fails to meet some future water standard, the City will at that time provide a treatment system for affected homes in the project area.
- GMD2 will assist the City in getting access to private property to install monitoring wells and collect water samples.

Staff feels that the commitments made as part of this MOU are appropriate for a project of this nature, and represent a prudent approach to resolving issues related to the project.

The commitments included in the MOU will increase the cost of the project. The grant from the City to GMD2 will cost up to \$20,000 per year for four years, and the construction of an additional shallow test well, associated monitoring well, and subsequent tests will cost approximately \$100,000. However, the total cost of the Phase 1 project is estimated to be approximately \$17 million, and the estimated cost of the total aquifer storage and recovery project is estimated to be \$137 million, so the cost of providing these assurances is minimal (about 0.1%) compared to the total project costs. Funding for the project is available in CIP W-549, Water Supply Plan Phase III, has a budget of \$70.6 million thru 2005.

Motion--
--carried

Brewer moved that the Memorandum of Understanding with the Groundwater Management District No. 2 be approved and the necessary signatures authorized. Motion carried 6 to 0, (Schlapp absent).

SETTLEMENT

SETTLEMENT OF LAWSUIT.

Agenda Report No. 04-0887

This lawsuit results from an automobile accident between plaintiff and a Wichita Police Officer at or near the location of I-35 and Meridian Street. Plaintiff alleges that the officer failed to use due care by running through a stop sign. The City vehicle struck plaintiff's vehicle from the side.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$335,000 as full settlement of all claims arising out of these transactions. Settlement would include a full release of liability for the city and the individual Police Officer. Because of the risks associated with litigation, the Law Department recommends acceptance of the offer.

Funding for this settlement payment is from the Self Insurance Contingency Fund.

The Law Department recommends acceptance of the offer of settlement.

Motion--

--carried

Brewer moved that the payment of \$335,000, as a full settlement of all possible claims arising out of the transactions which are the subject of the lawsuit be approved; and the transfer of contingency funds in the Self Insurance Fund held for adverse claims experience, be authorized. Motion carried 6 to 0, (Schlapp absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 408

BUDGET

BUDGET ADJUSTMENT.

Agenda Report No. 04-0888

With the continuing increases in fuel costs and in the demand for specialized (ADA) transportation, it is necessary to activate the contingency funds dedicated for those activities. Current local fuel budgets will be depleted by the end of August for diesel fuel and by the end of October for gasoline. KDOT funding has been secured for purchasing fuel through the end of the year once the local fuel budgets have been exhausted.

Fuel price increases and purchased transportation costs have resulted in our local transit fund budget being able to cover only three quarters of the year's operating requirements. KDOT funding has been used to cover the remaining fuel costs for the past two years. KDOT funds have also been used to cover over half of the total purchased transportation costs for the past 4 years.

KDOT funds are intended to supplement our local budgets and should not be used to substitute them.

Activating the diesel fuel contingency would result in increasing the diesel fuel budget from \$317,640 to \$363,310 (a \$45,670 increase). The gasoline budget would increase from \$133,000 to \$145,430 (a \$12,430 increase). Finally, activating the \$11,000 contingency for purchased transportation would result in increasing that budget from \$78,380 to \$89,380.

Budget Adjustments over \$10,000 must have City Council approval.

Motion--
--carried

Brewer moved that the Budget Adjustment request to activate the contingency funds for diesel fuel, gasoline and purchased transportation be approved. Motion carried 6 to 0, (Schlapp absent).

KS WILDLIFE/PARKS APPLICATION FOR KANSAS WILDLIFE & PARKS RECREATION TRAILS GRANT. (DISTRICT I)

Agenda Report No. 04-0889

In order to make improvements to the grounds surrounding the Great Plains Nature Center, the Department of Park and Recreation would like to make application for a grant from the Kansas Department of Wildlife & Parks in order to construct a 44-foot diameter octagonal open outdoor shelter building and a 500-foot section of nature trail.

The Kansas Department of Wildlife & Parks has federal funds available and administered through its National Recreational Trails Fund to assist agencies in developing trails and other associated amenities. The funds from this grant will assist in the construction of a small shelter building (44' in diameter) which will be used in a variety of ways—as a staging area for arriving groups, as an outdoor classroom for educational programs, and as a picnic shelter when not in use for programming. Grant funds will also be used to construct a 500 ft. section of nature trail that will connect the shelter structure with the existing trail system already in place at the site.

This is a matching grant, with the National Recreation Trails Fund providing 80% of the costs. The remaining 20% match will be provided by the Friends of the Great Plains Nature Center.

The City of Wichita will provide interim funding for the \$100,000 project, of which 80% (\$80,000) will be reimbursed by the granting agency and 20% (\$20,000) will be provided by the Friends of the Great Plains Nature Center, a nonprofit agency.

Motion--
--carried

Brewer moved that the grant application be approved and the necessary signatures authorized. Motion carried 6 to 0, (Schlapp absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 409

RIDGE PORT NORTH CORRECTING RESOLUTION: SANITARY SEWER FOR RIDGE PORT NORTH 4TH AND 5TH ADDITIONS, SOUTH OF 37TH STREET NORTH, EAST OF RIDGE. (DISTRICT V)

Agenda Report No. 04-0890

On July 24, 2001, the City Council approved a petition to construct a sanitary sewer for Ridge Port North 4th Addition. On November 5, 2002, the City Council approved a petition to construct a sanitary sewer for Ridge Port North 4th and 5th Additions. The second petition was intended to update the first petition, but was inadvertently established as a separate and distinct project.

A Resolution has been prepared to correct the error.

There is no impact on the project budget.

State Statutes provide the City Council the authority to correct an improvement district error by resolution.

Motion--carried

Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp, absent).

RESOLUTION NO. 04-457

Resolution of findings of advisability and Resolution authorizing improving of Lateral 3, Main 19, Southwest Interceptor Sewer (south of 37th Street North, east of Ridge) 468-83276, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp, absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCES

SECOND READING ORDINANCES (FIRST READ AUGUST 17, 2004)

- a) Changes to the order of business at regular meetings.

ORDINANCE NO.46-241

An Ordinance of the City of Wichita pertaining to changes to the order of business at regular City Council Meetings; amending Code Sections 2.04.190 and 2.04.390; and repealing the originals of said Sections, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0, (Schlapp, absent) Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

- b) A04-20 - north of 13th Street between 135th and 151st Street West. (District V)

ORDINANCE NO.46-242

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, read for the second time. Brewer moved that the Ordinance be placed upon its passage and adopted. Motion carried 6 to 0, (Schlapp, absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans. A04-20

PLANNING AGENDA

CON2003-00008

CON2003-00008-CONDITIONAL USE FOR A WIRELESS COMMUNICATION FACILITY. GENERALLY LOCATED SOUTH OF KELLOGG AND EAST OF WOODLAWN- ADDITIONAL FINDINGS. (DISTRICT II)

Agenda Report No. 04-0891

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 410

On June 17, 2003, the City Council voted (4-2) to deny an application for a Conditional Use to construct a wireless communication facility disguised as a stealth flagpole at this location. The City Council adopted 10 Findings to support the denial. The Applicants appealed the denial to the District Court where the matter was tried in R.H. Gump Revocable Trust, et al. v. City of Wichita, Case No. 03 CV 2793. The District Court issued an order remanding the matter to the City Council to clarify the facts upon which Finding #10 is based.

Additional findings of fact have been prepared based upon the records of this matter to support City Council Finding no. 10 stated as follows:

“10. Upon review of the total record, we find that the relative gain to the public health, safety and welfare by a denial of this application as compared to the loss in value or the hardship imposed upon the applicant, requires a denial of the application. The applicant has other less detrimental alternatives it can pursue to enhance its wireless services in this area.”

Motion--carried Mayans moved that this Item be deferred. Motion carried 6 to 0, (Schlapp absent).

DED 2004-19 DED 2004-19-CONTINGENT DEDICATION OF A SIDEWALK AND UTILITY EASEMENT, FOR PROPERTY LOCATED ON THE SOUTHEAST CORNER OF WEST STREET AND 31ST STREET SOUTH. (DISTRICT IV)

Agenda Report No. 04-0892

Staff Recommendation: Accept the Dedication.

MAPC Recommendation: Accept the Dedication. (11-0)

As a requirement of Lot Split Case No. SUB 2004-46, this Dedication is being submitted for a five-foot sidewalk and a utility easement along West Street.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried Mayans moved that the Dedication be accepted. Motion carried 6 to 0, (Schlapp absent).

SUB 2004-84-PLAT SUB 2004-84-PLAT OF EASTSIDE COMMUNITY CHURCH ADDITION, LOCATED ON THE NORTHWEST CORNER OF 21ST STREET NORTH AND 143RD STREET EAST. (DISTRICT II)

Agenda Report No. 04-0893

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

This unplatted site, consisting of one lot on 18.08 acres, is located within Wichita's city limits. The site is zoned SF-5, Single-Family Residential District.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for sewer, water, paving, left-turn lane and drainage improvements.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate will be recorded with the Register of Deeds.

Motion--
--carried Mayans moved that the documents and plat be approved; the necessary signatures be authorized; and the Resolutions be adopted. Motion carried 6 to 0, (Schlapp, absent).

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 411

RESOLUTION NO. 04-458

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90005, (north of 21st Street, west of 143rd Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp, absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

RESOLUTION NO. 04-459

Resolution of findings of advisability and Resolution authorizing improving an accel/decel lane on 21st Street North to serve Castle Rock, together with a left turn lane on 21st Street North from Castle Rock to the major entrance to the east side Community Church Second Addition 472-83977, (north of 21st Street, west of 143rd Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 6 to 0, (Schlapp, absent). Yeas: Brewer, Fearey, Gray, Lambke, Martz, Mayans.

BOARD APPTS.

BOARD APPOINTMENTS

Council Member Fearey Council Member Fearey stated that she would like to appoint Linda Matney, Annie Best and Gil Gutierrez to DAB VI and appoint Rick Shellenbarger and Bob Wine as alternates to DAB VI.

Motion--carried Mayans moved that the appointments be approved. Motion carried 6 to 0, (Schlapp absent).

UNFINISHED BUSINESS

FOP

FRATERNAL ORDER OF POLICE FACT-FINDING.

Steve Bukaty Mr. Bukaty stated that there are three issues that need to be resolved, wages, arbitration and language issues. Stated that their position is that the City Council should adopt as a one-year contract the recommendations of the fact finder for that one-year. Stated that negotiations began last spring and have been a long process. Stated that after they reached impasse, there was a lengthy hearing in front of the fact finder, which lasted three days. Stated that there seems to be a suggestion that there were no rules for the fact finder, Mr. Iacovetta, to follow, which is not correct. Stated that interest arbitration has been around in this country for at least 30 years and most states like Kansas have a post impasse procedure where there will be hearing. Stated that if you read the fact finders decision that he specifically relied on principles established by fact finders in Kansas under the statute. Things that he looked at are whether or not the wage increase is deserved and can the City afford it. Stated that Mr. Iacovetta found that the evidence was compelling that the Wichita Police Officers are under-paid. Stated that he adopted the standard that has been adopted by fact finders for years in this state, which is what we have to look at other comparable size departments, which is what he did. Stated that although Wichita is the 49th largest city in the country it is 140th in pay out of the top 200 cities in pay for police officers and this is when you adjust for inflation. Stated that the fact finder actually showed that the officers were entitled to a 5% pay raise but since arbitration is such an important issue to the FOP and the officers, his recommendation was a lower pay raise of 3.25% in exchange for arbitration. Reminded the Council that the Wichita Police Department is the only Police Department in the world that has won the prestigious Weaver-Seevey Award twice. Stated that the Council needs to be concerned that they are losing police officers and that the turn over is terrible within the first ten years because of low wages. Reported that arbitration is the norm in collective bargaining agreements and is a fair system. Stated that it is misleading for the City to say that the FOP objects to the City being able to choose arbitration over a grievance. Stated that the fact finder ruled that either the FOP or the City should be able to choose arbitration, which is fine with them. Stated that they accept and are willing to go with all of the issues decided by the fact finder.

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 412

- Ron York Mr. York stated that the primary issue before the Council today is the pay raise. Stated that if the Council grants the fact finder's report, he can assure the Council that the City of Wichita is not going to go bankrupt, taxes are not going to have to be raised and there will not have to be massive lay-offs to cover this. Stated that whenever you look at a monetary issue, which is a pay raise, there are two issues that have to be taken into consideration. One is the merit of the pay raise, is there a reason for it and the other issue, is there a way to pay for it. Stated that there is a direct correlation with what you pay and what the turnover rate is in your department. They figured that it would cost to give the base pay alone with all of the roll ups including overtime about \$388,000, and the City has \$412,000, which is not a big difference. Suggested that one way to pay for this would be over the last five years, is to take the Police Department's budget, which on the average it has under-spent it's budget by \$959,762. These are appropriations that expire within the Police Department budget and these items can be rearranged. Stated that Dr. Iacovetta is recommending a middle ground and has not adopted what the FOP or the City is asking for.
- Mayor Mayans Mayor Mayans asked Mr. York to explain the merit of the raise.
- Ron York Mr. York explained that he presented this from the standpoint of the City of Wichita and what is in it for the City of Wichita. When you have a pay plan that is that far down the line, you cannot be competitive in attracting and retaining police officers. If you want to get the best applicants and want to keep them, you need to have your wage scale competitive.
- Mayor Mayans Mayor Mayans stated that there seems to be a comparison to things that where the City of Wichita is low and not a comparison regarding things that are high, such as health benefits.
- Ron York Mr. York explained that what was used were things that every officer gets without having to do anything extra, such as base pay, shift pay, longevity pay, holiday pay, what the City contributes to the insurance plan and what they contribute to the pension plan and the uniform allowance. They take that, which is the aggregate total compensation package. Then figure base upon the amount of leave time that is given, such as sick leave, vacation, holiday and how many hours the officer has to work to earn that wage package, which includes the health insurance and the pension and divide that into an hourly rate. They do this every year in a 30-year career and average it out, so they do address those issues.
- Council Member Gray Council Member Gray stated that regarding the discussion of uniform allowance, asked what the relative costs for the annual expense is.
- Ron York Mr. York explained that not every uniform is the same but in preparing the survey, there are departments that furnish the uniforms and they have found from the departments that they were able to obtain actual costs--- it usually runs between \$600 and \$800, and they use the \$600 figure for their survey.
- Mayor Mayans Mayor Mayans inquired about arbitration.
- Ron York Mr. York explained that the City had made the offer for limited arbitration for termination and their counter-proposal was that in order to get full arbitration, they would take everything else off the table and accept their pay raise but they would not agree to the full arbitration. The fact finder found that there was never an agreement there. Stated that they think it is extremely important that there is arbitration for contract interpretation too and that their main complaint with this decision is that the City gets to decide whether or not it has violated the contract.
- Kelly Rundell Ms. Rundell, Senior Attorney with the City of Wichita, presented the factual background and the City's recommendations on how to resolve this contract. Reported that the City made a proposal for one year for a 2% increase across the board, the tentative agreements, and 80/20% split on insurance and with no change in the grievance procedure. The FOP agreed to all of that but they wanted mandatory binding arbitration. Despite mediation and efforts by both sides this standpoint never changed. We have a fact finder that was appointed by the state and there was a hearing and during the fact-finding, the FOP argued to the fact finder that all of the things that happened up to that point were all things they had done in order to try to get a settlement. Stated that Mr. Iacovetta is a fact finder and state law does not give him any standards to make his decision. He chose the standards to make them on. Stated that according to state law the City Council makes their decision now based on what is in the best interest of

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 413

the public including the public employees. Mr. Iacovetta did not have that standard before him, he did not consider the big issues, he did not have to deal with the long-term financial health of the community, other demands on the budgets or priority decisions that the Council has to make.

Kelly Rundell reviewed the City's recommendations:

- . A contract from December 20, 2003, to December 17, 2004, the last contract expired on December 19, 2003. You can only do a one-year contract as a City Council as unilateral decision.
- . The City is recommending a 2% across the board increase retroactive to December 20, 2003.
- . The City will pay 80% of the health insurance premiums.
- . Continue with the City's grievance procedure and do not go with binding arbitration.

Reported that the 2004 Budget allowed for a 2% increase in the employees raises. The 2005 Budget has a 1.5% increase, if you were to improve on that and go to 3% or higher, you will have to allow for that next year as well because these are reoccurring expenses. You will also have to deal with that expense now and the deficit that can cause. Stated that Mr. York advertises on the National FOP website and represents only unions and never works for cities. Stated that this is important because the Council needs to realize that he is not being objective and it is not his job to help the Council find money or to assist the Council, his goal is only to help the unions. During the fact finding, Mr. York suggested a number of creative and inappropriate ways to raise funds to pay for these FOP raises. Stated that one of them was to tap the reserves and if you tap the reserves to pay for raises you will be taking away numerous benefits that the City receives from their reserves. The City needs to consider the affect on the bond rates and not raid the reserves. Another proposal was to cancel the economic development funding, which is not appropriate because the City needs those funds to stimulate the economy, which benefits everyone. Another proposal was to use special revenue or enterprise funds to pay police wages, such as fire, water, airport and transit. Explained that these funds are set up for segregated purpose and are not available to use anyway you want. There are limitations on them. The other proposal was to borrow the money, which by extending your debts will adversely affect the bond ratings and it is not good practice to live on borrowed funds to pay your officers. The proposal regarding the money saved within the department but expenses and wages are reoccurring expenses, they are not funds that you can plan on always being there. The City budgets for the departments to save money and no one really knows which department is going to have early retirements, the inability to fill jobs or military leave.

Ms. Rundell, City Attorney, reviewed the comparability of different departments.

- | | |
|-----------------------|--|
| Council Member Martz | Council Member Martz asked if the amount of the increase in the budget that they are asking for includes additional expenses for pension. |
| Kelly Rundell | Ms. Rundell, City Attorney, stated no and that it has not been calculated and would be an additional expense. |
| Council Member Martz | Council Member Martz stated that regarding health insurance, originally the City was paying 75% and is currently paying 80%. Asked what the differential is. |
| Kelly Rundell | Ms. Rundel, City Attorney, explained that in the last contract with the FOP, the contract language said that the City was going to pick up 75% of the bill but was in fact paying 80%. |
| Phil Murphy | Mr. Murphy, Employee Relations Officer, explained that the difference was about \$230,000 between the 75/25 and the 80/20 for just the FOP. |
| Council Member Brewer | Council Member Brewer stated that there was a comment made about Kansas City's mill levy being greater than Wichita's and asked what the difference is between the two cities. |
| Kelly Rundell | Ms. Rundell, City Attorney, stated that the mill levy in Kansas City is 158.343 and Wichita's is 115.122. |
| Council Member Lambke | Council Member Lambke stated that if the 3.25% pay increase were granted, it would be more than was budgeted for. Asked what the amount is that the City has budgeted for. |

CITY COUNCIL PROCEEDINGS

JOURNAL 181

AUGUST 31, 2004

PAGE 414

- Kelly Rundell Ms. Rundell, City Attorney, stated that a 2% increase has been budgeted for and 1.5% for 2005.
- Council Member Gray Council Member Gray inquired about when the budgeted 2% got changed because he remembered during the budget hearing last year that it was only 1.5%.
- Rob Raine Rob Raine, Budget Officer, explained that when the 2004 Budget was adopted it included 1.5% for wages across the board but during the revised budget process that was increased to 2% as a reflection of all of the agreements that had been arrived at already. During the revised budget process, the latest offer that the City had made to the FOP included 2% and that is why the revised budget reflected 2%.
- Mayor Mayans Mayor Mayas asked Mr. York if the property taxes, mill levy and sales tax go into his ranking.
- Ron York Mr. York explained that the only things that goes into the ranking is the total compensation package that every employee gets, hours required to work to earn the package, and adjustment for the local cost of living.
- Mayor Mayans Mayor Mayans stated that in visiting with the City Council, we are very supportive of public safety and want to do the right thing. The Council has purposely not visited with each other so as not to taint each other's views on this issue and have not visited with staff to make sure that they would be open to all points made by both sides. Stated that this is a very complex issue and it cannot be resolved today but would like to hold a special meeting on Wednesday, September 8, 2004, from 1:00 to 4:00 p.m. and go into executive session to review each item of the points made by the arbitrator and discuss them. If there is a consensus made on Wednesday, a decision could possibly be made at that time; if not, a special meeting will be scheduled for Thursday and Friday mornings if more time is needed. Would like to have a consensus where both sides feel good about the decision made.
- Council Member Gray Council Member Gray stated that it would be a good decision if the Council could come to a decision at the end of next week and recognize the fact that the men and women police officers have been waiting over a year for a resolution and the Council recognizes the urgency to come to a decision.
- Motion--carried Mayans moved that the meeting be adjourned. Motion carried 6 to 0, (Schlapp absent).
- Adjournment The City Council meeting adjourned at 3:28 p.m.

Karen Sublett
City Clerk

****The Workshops were not held; will be scheduled at later meetings****